

U.S. Patent Application No. 10/770,895
Amendment dated April 24, 2006
Reply to Office Action of November 22, 2005

REMARKS/ARGUMENTS

Reconsideration and continued examination of this application are respectfully requested.

In the amendment, claims 50 and 51 have been canceled by way of this amendment. Claims 53 and 80 have been amended for editorial reasons. Claim 28 has been amended to include the limitations of claim 50 or claim 51, as well as claim 52. Claim 30 has been amended to include the limitations of claim 50 or claim 51. Claim 52 has been amended to become dependent on claim 30. Finally, new claims 90 and 91 have been added, which are identical to claims 58 and 59, but are dependent on claim 30. Full support for these amendments can be found throughout the present application, including the claims as originally filed. Accordingly, no questions of new matter should arise and entry of this amendment is respectfully requested.

In the Office Action, the Examiner indicates that claims 71-89 are allowed and that claims 40, 45, 50-53, and 55-58 are objected to.

At page 2 of the Office Action, the Examiner rejects claims 28, 31, 48, 59, 61, and 62 under 35 U.S.C. §102(e) as being anticipated by Tripp (U.S. Patent No. 6,515,846 B1). The Examiner asserts that Tripp shows niobium powders and capacitor anodes which had the particular carbon, iron, nickel, and chromium contents as recited in claims 28 and 48. For the following reasons, this rejection is respectfully traversed.

To expedite the prosecution of the present application, claim 28 has been amended to include the limitation of claim 50 or the limitation of claim 51, and to further include the limitation of claim 52. It is respectfully noted that the subject matter of claims 50-52 were indicated as subject matter that would be allowable and therefore the presence of this subject matter in claim 28 would be patentable over Tripp. For at least these reasons, this rejection should be withdrawn.

U.S. Patent Application No. 10/770,895
Amendment dated April 24, 2006
Reply to Office Action of November 22, 2005

Also, at page 2 of the Office Action, the Examiner rejected claims 28, 30, 31, 33, 46-49, 54, and 59-70 under 35 U.S.C. §102(e) as being anticipated by Shekhter et al. (U.S. Patent No. 6,171,363 B1). The Examiner asserts that Shekhter et al. shows niobium powders having particular contents for carbon, iron, nickel, chromium, and a surface area of 4.09 m²/g. The Examiner further assert that Shekhter et al. shows capacitor anodes formed from the powder and the Examiner asserts that the formation voltage and working voltage would be inherently present. The Examiner further asserts that the oxygen contents as recited in claims 48, 59, and 60 would be present. For the following reasons, this rejection is respectfully traversed.

To expedite the prosecution of the present application, claim 28 has been amended to include the limitation of claim 50 or the limitation of claim 51, and to further include the limitation of claim 52. It is respectfully noted that the subject matter of claims 50-52 were indicated as subject matter that would be allowable and therefore the presence of this subject matter in claim 28 would be patentable over Shekhter et al. Similar amendments have been made to claim 30 as well. For at least these reasons, this rejection should be withdrawn.

At page 3 of the Office Action, the Examiner rejects claims 29 and 32 under 35 U.S.C. §103(a) as being unpatentable over Tripp. The Examiner asserts that Tripp shows a niobium powder having purities that would be close enough to the range for carbon set forth in claims 29 and 32. For the following reasons, this rejection is respectfully traversed.

Since claim 29 and claim 32 are dependent ultimately on claim 28, the comments set forth above with respect to the §102(e) rejection of the claims in view of Tripp apply equally here. For at least these reasons, this rejection should be withdrawn.

At page 4 of the Office Action, the Examiner rejects claims 29 and 32 under 35 U.S.C.

U.S. Patent Application No. 10/770,895
Amendment dated April 24, 2006
Reply to Office Action of November 22, 2005

§103(a) as being unpatentable over Shekhter et al. The Examiner asserts that Shekhter et al. shows a niobium powder that would have a carbon content that would be close to the range set forth in claims 29 and 32. For the following reasons, this rejection is respectfully traversed.

To expedite the prosecution of the present application, claim 28 has been amended to include the limitation of claim 50 or the limitation of claim 51, and to further include the limitation of claim 52. It is respectfully noted that the subject matter of claims 50-52 were indicated as subject matter that would be allowable and therefore the presence of this subject matter in claim 28 would be patentable over Shekhter et al. Similar amendments have been made to claim 30 as well. Claim 29 and 32 are dependent on claim 28 or claim 30 are therefore would also be allowable. For these reasons, this rejection should be withdrawn.

The applicants appreciate the Examiner's indication that claims 71-89 are allowable and that the subject matter of claims 44, 45, 50-53, and 55-58 would be allowable. As stated above, some of these claims have been incorporated into the rejected claims and, therefore, all claims should now be in condition for allowance.

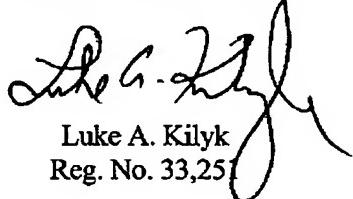
CONCLUSION

In view of the foregoing remarks, the applicants respectfully request the reconsideration of this application and the timely allowance of the pending claims.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 03-0060. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

U.S. Patent Application No. 10/770,895
Amendment dated April 24, 2006
Reply to Office Action of November 22, 2005

Respectfully submitted,



Luke A. Kilyk
Reg. No. 33,251

Atty. Docket No. 99024CIPDIV2 (3600-234-03)
KILYK & BOWERSOX, P.L.L.C.
400 Holiday Court, Suite 102
Warrenton, VA 20186
Tel.: (540) 428-1701
Fax: (540) 428-1720